

**Introduced by Senator Roth**

February 27, 2015

---

An act to amend Sections 10159.1, 10163.2, 10489.15, 10489.2, 10489.3, 10489.5, 10489.6, 10489.7, 10489.8, 10489.9, and 10489.93 of, to add Sections 10489.12, 10489.4, 10489.96, 10489.97, 10489.98, 10489.99, and 10489.992 to, and to repeal and add Sections 10489.1 and 10489.95 of, the Insurance Code, relating to insurance.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 696, as introduced, Roth. Insurance: principle-based valuation.

Existing law governs the issuance of life and disability insurance and authorizes the Insurance Commissioner to regulate those insurers. Existing law requires every life and disability insurer doing business in this state to annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable state law. Among other things, existing law requires insurers to calculate the minimum standard for the valuation of those policies and contracts using specified mortality tables approved by the commissioner, sets forth the applicable interest rates, and establishes the reserve requirements for various types of life and disability policies and contracts.

This bill would explicitly refer to the body of laws imposing those requirements, as specified, as the Standard Valuation Law. The bill would require the commissioner and companies engaging in specified activities relating to the business of life insurance to incorporate the methodology employed by a specified manual of valuation instructions

adopted by the National Association of Insurance Commissioners in making determinations relating to reserve requirements and the minimum standard of valuation for policies and contracts, as specified. The bill would require a company to establish reserves using a principle-based valuation that meets specified conditions in that manual, including quantifying the benefits, guarantees, and funding associated with the contracts, and would require the company to develop and file with the commissioner upon request, a principle-based valuation report. The bill would require a company to submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual. The bill would require the commissioner to impose an annual assessment on each insurer, based on the insurer's gross annual life insurance premium written by an insurer in California during the immediately preceding year, thereby imposing a tax. The bill would exempt certain information submitted by a company to the commissioner from disclosure pursuant to the California Public Records Act and would provide that it is not subject to subpoena or discovery or admissible in evidence in any private civil action. The bill would also authorize the commissioner to hire and assign department staff, and retain nondepartmental actuaries and other consultants, to assist the commissioner in implementing principle-based valuation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 10159.1 of the Insurance Code is  
2     amended to read:

1 10159.1. (a) This article is applicable only to policies and  
2 contracts issued on or after the operative date as to such policies  
3 or contracts of this article.

4 (b) *The term “operative date of the valuation manual” means*  
5 *the January 1 of the first calendar year that the valuation manual,*  
6 *as defined in Section 10489.1, is effective.*

7 SEC. 2. Section 10163.2 of the Insurance Code is amended to  
8 read:

9 10163.2. (a) This section shall apply to all policies issued on  
10 or after the operative date of this section as defined herein. Except  
11 as provided in subdivision (g), the adjusted premiums for any  
12 policy shall be calculated on an annual basis and shall be such  
13 uniform percentage of the respective premiums specified in the  
14 policy for each policy year, excluding amounts payable as extra  
15 premiums to cover impairments or special hazards and also  
16 excluding any uniform annual contract charge or policy fee  
17 specified in the policy in a statement of the method to be used in  
18 calculating the cash surrender values and paid-up nonforfeiture  
19 benefits, that the present value, at the date of issue of the policy,  
20 of all adjusted premiums shall be equal to the sum of (1) the then  
21 present value of the future guaranteed benefits provided for by the  
22 policy; (2) 1 percent of either the amount of insurance, if the  
23 insurance be uniform in amount, or the average amount of  
24 insurance at the beginning of each of the first 10 policy years; and  
25 (3) 125 percent of the nonforfeiture net level premium as  
26 hereinafter defined. Provided, however, that in applying the  
27 percentage specified in (3) no nonforfeiture net level premium  
28 shall be deemed to exceed 4 percent of either the amount of  
29 insurance, if the insurance be uniform in amount, or the average  
30 amount of insurance at the beginning of each of the first 10 policy  
31 years. The date of issue of a policy for the purpose of this section  
32 shall be the date as of which the rated age of the insured is  
33 determined.

34 (b) The nonforfeiture net level premium shall be equal to the  
35 present value, at the date of issue of the policy, of the guaranteed  
36 benefits provided for by the policy, divided by the present value,  
37 at the date of issue of the policy, of an annuity of 1 percent per  
38 annum payable on the date of issue of the policy and on each  
39 anniversary of such policy on which a premium falls due.

(c) In the case of policies which cause on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in subdivision (g), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (1) the sum of (A) the then present value of the then future guaranteed benefits provided for by the policy and (B) the additional expense allowance, if any, over (2) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (1) 1 percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (2) 125 percent of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (1) by (2) where:

(1) It equals the sum of:

1 (A) The nonforfeiture net level premium applicable prior to the  
2 change times the present value of an annuity of 1 percent per  
3 annum payable on each anniversary of the policy on or subsequent  
4 to the date of the change on which a premium would have fallen  
5 due had the change not occurred, and

6 (B) The present value of the increase in future guaranteed  
7 benefits provided for by the policy, and

8 (2) It equals the present value of an annuity of 1 percent per  
9 annum payable on each anniversary of the policy on or subsequent  
10 to the date of change on which a premium falls due.

11 (g) Notwithstanding any other provisions of this section to the  
12 contrary, in the case of a policy issued on a substandard basis  
13 which provides reduced graded amounts of insurance so that, in  
14 each policy year, such policy has the same tabular mortality cost  
15 as an otherwise similar policy issued on the standard basis which  
16 provides higher uniform amounts of insurance, adjusted premiums  
17 and present values for such substandard policy may be calculated  
18 as if it were issued to provide such higher uniform amounts of  
19 insurance on the standard basis.

20 (h) All adjusted premiums and present values referred to in this  
21 article shall for all policies of ordinary insurance be calculated on  
22 the basis of (1) the Commissioners 1980 Standard Ordinary  
23 Mortality Table or (2) at the election of the company for any one  
24 or more specified plans of life insurance, the Commissioners 1980  
25 Standard Ordinary Mortality Table with Ten-Year Select Mortality  
26 Factors; shall for all policies of industrial insurance be calculated  
27 on the basis of the Commissioners 1961 Standard Industrial  
28 Mortality Table; and shall for all policies issued in a particular  
29 calendar year be calculated on the basis of a rate of interest not  
30 exceeding the nonforfeiture interest rate as defined in this section  
31 for policies issued in that calendar year. Provided, however, that:

32 (1) At the option of the company, calculations for all policies  
33 issued in a particular calendar year may be made on the basis of  
34 a rate of interest not exceeding the nonforfeiture interest rate, as  
35 defined in this section, for policies issued in the immediately  
36 preceding calendar year.

37 (2) Under any paid-up nonforfeiture benefit, including any  
38 paid-up dividend additions, any cash surrender value available,  
39 whether or not required by Section 10160, shall be calculated on  
40 the basis of the mortality table and rate of interest used in

1 determining the amount of such paid-up nonforfeiture benefit and  
2 paid-up dividend additions, if any.

3 (3) A company may calculate the amount of any guaranteed  
4 paid-up nonforfeiture benefit including any paid-up additions under  
5 the policy on the basis of an interest rate no lower than that  
6 specified in the policy for calculating cash surrender values.

7 (4) In calculating the present value of any paid-up term insurance  
8 with accompanying pure endowment, if any, offered as a  
9 nonforfeiture benefit, the rates of mortality assumed may be not  
10 more than those shown in the Commissioners 1980 Extended Term  
11 Insurance Table for policies of ordinary insurance and not more  
12 than the Commissioners 1961 Industrial Extended Term Insurance  
13 Table for policies of industrial insurance.

14 (5) For insurance issued on a substandard basis, the calculation  
15 of any such adjusted premiums and present values may be based  
16 on appropriate modifications of the aforementioned tables.

17 (6) ~~Any~~ (A) *For policies issued prior to the operative date of*  
18 *the valuation manual, any Commissioner's Standard* ordinary  
19 mortality tables, adopted after 1980 by the National Association  
20 of Insurance Commissioners, or its successor, that are approved  
21 by regulation promulgated or bulletin issued by the commissioner  
22 for use in determining the minimum nonforfeiture standard may  
23 be substituted for the Commissioners 1980 Standard Ordinary  
24 Mortality Table with or without Ten-Year Select Mortality Factors  
25 or for the Commissioners 1980 Extended Term Insurance Table.

26 (B) *For policies issued on or after the operative date of the*  
27 *valuation manual, the valuation manual shall provide the*  
28 *Commissioners' Standard mortality table for use in determining*  
29 *the minimum nonforfeiture standard that may be substituted for*  
30 *the Commissioners 1980 Standard Ordinary Mortality Table with*  
31 *or without Ten-year Select Mortality Factors or for the*  
32 *Commissioners 1980 Extended Term Insurance Table. If the*  
33 *commissioner approves by regulation any Commissioners'*  
34 *Standard ordinary mortality table adopted by the National*  
35 *Association of Insurance Commissioners for use in determining*  
36 *the minimum nonforfeiture standard for policies issued on or after*  
37 *the operative date of the valuation manual then that minimum*  
38 *nonforfeiture standard supersedes the minimum nonforfeiture*  
39 *standard provided by the valuation manual.*

(7) ~~Any~~ (A) *For policies issued prior to the operative date of the valuation manual, any Commissioner's Standard industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.*

(B) *For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners' Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Ordinary Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the commissioner approves by regulation any Commissioners' Standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.*

(i) ~~The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one-quarter of 1 percent.~~

(1) *For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for the policy as defined in the Standard Valuation Law, rounded to the nearer one-fourth of 1 percent, provided, however, that the nonforfeiture interest rate shall not be less than 4 percent.*

(2) *For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.*

(j) *Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of*

1 computation for any previously approved policy form which  
2 involves only a change in the interest rate or mortality table used  
3 to compute nonforfeiture values shall not require refiling of any  
4 other provisions of that policy form.

5 (k) After the effective date of this section, any company may  
6 file with the commissioner a written notice of its election to comply  
7 with the provision of this section after a specified date before  
8 January 1, 1989, which shall be the operative date of this section  
9 for such company. If a company makes no such election, the  
10 operative date of this section for such company shall be January  
11 1, 1989.

12 SEC. 3. Section 10489.1 of the Insurance Code is repealed.

13 ~~10489.1. This article and Sections 10479, 10480, 10481, 10483,~~  
14 ~~10484, 10486, and 10489 shall apply to the valuation of policies~~  
15 ~~and contracts issued on or after the operative date as to policies or~~  
16 ~~contracts of Article 3a (commencing with Section 10159.1) of~~  
17 ~~Chapter 1 of Part 2 of Division 2 and shall also apply as provided~~  
18 ~~in Section 10489.3 to the valuation of benefits purchased under~~  
19 ~~group annuity and pure endowment contracts issued prior to such~~  
20 ~~operative date.~~

21 SEC. 4. Section 10489.1 is added to the Insurance Code, to  
22 read:

23 10489.1. (a) This article shall be known as the Standard  
24 Valuation Law.

25 (b) For the purposes of this article, the following definitions  
26 shall apply on or after the operative date of the valuation manual:

27 (1) "Accident and health insurance" means contracts that  
28 incorporate morbidity risk and provide protection against economic  
29 loss resulting from accident, sickness, or medical conditions and  
30 as may be specified in the valuation manual.

31 (2) "Appointed actuary" means a qualified actuary who is  
32 appointed in accordance with the valuation manual to prepare the  
33 actuarial opinion required in subdivision (b) of Section 10489.15.

34 (3) "Company" means an entity, which (A) has written, issued,  
35 or reinsured life insurance contracts, accident and health insurance  
36 contracts, or deposit-type contracts in this state and has at least  
37 one policy in force or on claim or (B) has written, issued, or  
38 reinsured life insurance contracts, accident and health insurance  
39 contracts, or deposit-type contracts in any state and is required to



1 hold a certificate of authority to write life insurance, accident and  
2 health insurance, or deposit-type contracts in this state.

3 (4) “Deposit-type contract” means contracts that do not  
4 incorporate mortality or morbidity risks and as may be specified  
5 in the valuation manual.

6 (5) “Life insurance” means contracts that incorporate mortality  
7 risk, including annuity and pure endowment contracts, and as may  
8 be specified in the valuation manual.

9 (6) “NAIC” means the National Association of Insurance  
10 Commissioners.

11 (7) “Policyholder behavior” means any action a policyholder,  
12 contractholder, or any other person with the right to elect options,  
13 such as a certificate holder, may take under a policy or contract  
14 subject to this article, including, but not limited to, lapse,  
15 withdrawal, transfer, deposit, premium payment, loan,  
16 annuitization, or benefit elections prescribed by the policy or  
17 contract, but excluding events of mortality or morbidity that result  
18 in benefits prescribed in their essential aspects by the terms of the  
19 policy or contract.

20 (8) “Principle-based valuation” means a reserve valuation that  
21 uses one or more methods or one or more assumptions determined  
22 by the insurer and is required to comply with Section 10489.97,  
23 as specified in the valuation manual.

24 (9) “Qualified actuary” means an individual who is qualified to  
25 sign the applicable statement of actuarial opinion in accordance  
26 with the American Academy of Actuaries qualification standards  
27 for actuaries signing those statements and who meets the  
28 requirements specified in the valuation manual.

29 (10) “Tail risk” means a risk that occurs either when the  
30 frequency of low probability events is higher than expected under  
31 a normal probability distribution or when there are observed events  
32 of very significant size or magnitude.

33 (11) “Valuation manual” means the manual of valuation  
34 instructions adopted by the NAIC as specified in this article or as  
35 subsequently amended.

36 (c) This article and Sections 10480, 10481, 10483, 10484, and  
37 10486 shall apply (1) to the valuation of policies and contracts  
38 subject to this article issued on or after the operative date of the  
39 valuation manual and (2) as provided in Section 10489.3 as to the

1 valuation of benefits purchased under group annuity and pure  
2 endowment contracts issued prior to that operative date.

3 SEC. 5. Section 10489.12 is added to the Insurance Code, to  
4 read:

5 10489.12. (a) For policies and contracts issued prior to the  
6 operative date of the valuation manual, both of the following shall  
7 be satisfied:

8 (1) The commissioner shall annually value, or cause to be  
9 valued, the reserve liabilities (hereinafter called reserves) for all  
10 outstanding life insurance policies and annuity and pure endowment  
11 contracts of every life insurance company doing business in this  
12 state issued prior to the operative date of the valuation manual. In  
13 calculating reserves, the commissioner may use group methods  
14 and approximate averages for fractions of a year or otherwise. In  
15 lieu of the valuation of the reserves required of a foreign or alien  
16 company, the commissioner may accept a valuation made, or  
17 caused to be made, by the insurance supervisory official of any  
18 state or other jurisdiction when the valuation complies with the  
19 minimum standard provided in this article.

20 (2) Sections 10489.2, 10489.3, 10489.4, 10489.5, 10489.6,  
21 10489.7, 10489.8, 10489.9, 10489.93 and 10489.95 shall apply to  
22 all appropriate policies and contracts subject to this article and  
23 issued prior to the operative date of the valuation manual. Sections  
24 10489.96 and 10489.97 shall not apply to any of those policies  
25 and contracts.

26 (b) For policies and contracts issued on or after the operative  
27 date of the valuation manual, both of the following shall be  
28 satisfied:

29 (1) The commissioner shall annually value, or cause to be  
30 valued, the reserves for all outstanding life insurance contracts,  
31 annuity and pure endowment contracts, accident and health  
32 contracts, and deposit-type contracts of every company issued on  
33 or after the operative date of the valuation manual. In lieu of the  
34 valuation of the reserves required of a foreign or alien company,  
35 the commissioner may accept a valuation made, or caused to be  
36 made, by the insurance supervisory official of any state or other  
37 jurisdiction when the valuation complies with the minimum  
38 standard provided in this article.

(2) Sections 10489.96 and 10489.97 shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

SEC. 6. Section 10489.15 of the Insurance Code is amended to read:

10489.15. (a) ~~Every life and disability insurer~~ *(1) For an actuarial opinion prior to the operative date of the valuation manual, every life insurance company* doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported ~~amounts~~, *amounts* and comply with applicable laws of this state. The ~~commissioner, by regulation, commissioner~~ shall define by *regulation* the specifics of this opinion and add any other items deemed to be necessary to its scope.

~~(b) (1) Every~~

(2) (A) *For an actuarial analysis of reserves and assets supporting reserves, every life and disability insurer, insurance company*, except as exempted by ~~or pursuant to~~ regulation, shall also annually include in the opinion required by ~~subdivision (a), paragraph (1)~~, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation, when considered in light of the assets held by the ~~insurer~~ *company* with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the ~~insurer's~~ *company's* obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

~~(2)~~

(B) The commissioner may provide by regulation for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

~~(c) The opinion required by either subdivision (a) or subdivision (b) shall be governed by all of the following provisions:~~

1     (3) *An opinion required by paragraph (2) shall be governed by*  
2 *the following:*

3     (A) *A memorandum, in form and substance acceptable to the*  
4 *commissioner as specified by regulation, shall be prepared to*  
5 *support each actuarial opinion.*

6     (B) *If the insurance company fails to provide a supporting*  
7 *memorandum at the request of the commissioner within a period*  
8 *specified by regulation, or the commissioner determines that the*  
9 *supporting memorandum provided by the insurance company fails*  
10 *to meet the standards prescribed by the regulations or is otherwise*  
11 *unacceptable to the commissioner, the commissioner may engage*  
12 *a qualified actuary at the expense of the company to review the*  
13 *opinion and the basis for the opinion and prepare the supporting*  
14 *memorandum required by the commissioner.*

15     (4) *Every opinion required by this subdivision shall be governed*  
16 *by the following provisions:*

17     (1)  
18     (A) *The opinion shall be submitted with the annual statement*  
19 *reflecting the valuation of the reserve liabilities for each year*  
20 *ending on or after December 31, 1992.*

21     (2)  
22     (B) *The opinion shall apply to all business in force, including*  
23 *individual and group life and disability insurance, health insurance*  
24 *plans, in form and substance acceptable to the commissioner as*  
25 *specified by regulation.*

26     (3)  
27     (C) *The opinion shall be based on standards adopted from time*  
28 *to time by the Actuarial Standards Board and on any additional*  
29 *standards that as the commissioner may by regulation prescribe.*

30     (4)  
31     (D) *In the case of an opinion required to be submitted by a*  
32 *foreign or alien insurer, company, the commissioner may accept*  
33 *the opinion filed by that insurer company with the insurance*  
34 *supervisory official of another state if the commissioner determines*  
35 *that the opinion reasonably meets the requirements applicable to*  
36 *an insurer a company domiciled in this state.*

37     (5)  
38     (E) *For the purposes of this section, “qualified actuary” means*  
39 *a member in good standing of the American Academy of Actuaries*

1 who meets the requirements set forth in ~~regulations of the~~  
2 ~~commissioner~~. *the regulation.*

3 ~~(6)~~

4 (F) The qualified actuary shall be liable for his or her negligence  
5 or other tortious conduct.

6 ~~(7)~~

7 (G) Disciplinary action by the commissioner against the ~~insurer~~  
8 ~~company~~ or the qualified actuary ~~shall~~ may be defined in  
9 regulations by the commissioner.

10 (H) *Except as provided in subparagraphs (L), (M), and (N),*  
11 *documents, materials, or other information in the possession or*  
12 *control of the Department of Insurance that are a memorandum*  
13 *in support of the opinion, and any other material provided by the*  
14 *company to the commissioner in connection with the memorandum,*  
15 *shall be confidential by law and privileged, shall not be subject*  
16 *to the California Public Records Act, shall not be subject to*  
17 *subpoena, and shall not be subject to discovery or admissible in*  
18 *evidence in any private civil action. However, the commissioner*  
19 *may use the documents, materials, or other information in the*  
20 *furtherance of any regulatory or legal action brought as a part of*  
21 *the commissioner's official duties.*

22 (I) *Neither the commissioner nor any person who received*  
23 *documents, materials, or other information while acting under the*  
24 *authority of the commissioner shall be permitted or required to*  
25 *testify in any private civil action concerning any confidential*  
26 *documents, materials, or information subject to subparagraph*  
27 *(H).*

28 (J) *In order to assist in the performance of the commissioner's*  
29 *duties, the commissioner may do any of the following:*

30 (i) *Share documents, materials, or other information, including*  
31 *the confidential and privileged documents, materials, or*  
32 *information subject to subparagraph (H), with other state, federal,*  
33 *and international regulatory agencies, with the National*  
34 *Association of Insurance Commissioners and its affiliates and*  
35 *subsidiaries, and with state, federal, and international law*  
36 *enforcement authorities, provided that the recipient agrees to*  
37 *maintain the confidentiality and privileged status of the document,*  
38 *material, or other information.*

39 (ii) *Receive documents, materials, or information, including*  
40 *otherwise confidential and privileged documents, materials, or*

1 information, from the National Association of Insurance  
2 Commissioners and its affiliates and subsidiaries, and from  
3 regulatory and law enforcement officials of other foreign or  
4 domestic jurisdictions, and shall maintain as confidential or  
5 privileged any document, material, or information received with  
6 notice or the understanding that it is confidential or privileged  
7 under the laws of the jurisdiction that is the source of the document,  
8 material, or information.

9 (iii) Enter into agreements governing sharing and use of  
10 information consistent with subparagraphs (H) to (J), inclusive.

11 (K) No waiver of any applicable privilege or claim of  
12 confidentiality in the documents, materials, or information shall  
13 occur as a result of disclosure to the commissioner under this  
14 section or as a result of sharing as authorized in subparagraph  
15 (J).

16 (L) A memorandum in support of the opinion, and any other  
17 material provided by the company to the commissioner in  
18 connection with the memorandum, may be subject to subpoena for  
19 the purpose of defending an action seeking damages from the  
20 actuary submitting the memorandum by reason of an action  
21 required by this section or by regulations promulgated pursuant  
22 to this section.

23 ~~(8) (A) Any memorandum or other material submitted by the~~  
24 ~~insurer to the commissioner in support of the opinion shall be kept~~  
25 ~~confidential by the commissioner and shall not be made public;~~  
26 ~~provided, however, that the~~

27 (M) The memorandum or the other material may otherwise be  
28 released by the commissioner ~~(i) to any party, with the written~~  
29 ~~consent of the insurer, company or (ii) to the American Academy~~  
30 ~~of Actuaries upon the academy's written request and statement~~  
31 ~~stating that the memorandum or the other material is required for~~  
32 ~~the purpose of professional disciplinary proceedings and that the~~  
33 ~~academy will observe setting forth procedures satisfactory to the~~  
34 ~~commissioner to preserve for preserving the confidentiality of the~~  
35 ~~memorandum or the other material. The entirety of the~~

36 (N) Once any portion of the confidential memorandum shall  
37 lose its confidential status on the occurrence of any of the following  
38 events: the citation of any part of the confidential memorandum  
39 is cited by the insurer company in its marketing efforts, the citation  
40 of any part of the confidential memorandum by the insurer efforts

1 *or is cited before any a governmental agency other than a state*  
2 *insurance department, or the release of any part of the confidential*  
3 *memorandum by the insurer to any news medium. department or*  
4 *is released by the company to the news media, all portions of the*  
5 *confidential memorandum shall no longer be confidential.*

6 ~~(B) Notwithstanding subparagraph (A), the confidential~~  
7 ~~memorandum shall be subject to subpoena (i) on the~~  
8 ~~commissioner's consent, or (ii) after notice to the commissioner~~  
9 ~~and all other interested parties and a hearing in which the superior~~  
10 ~~court determines that (I) the need for the subpoena outweighs the~~  
11 ~~interests of the insurer or actuary in preventing release of the~~  
12 ~~confidential memorandum and the other material, and (II) the~~  
13 ~~public interest and any ongoing investigation or proceeding~~  
14 ~~conducted by the commissioner will not be unnecessarily~~  
15 ~~jeopardized by compliance with the subpoena.~~

16 *(b) (1) For an actuarial opinion of reserves after the operative*  
17 *date of the valuation manual, every company with outstanding life*  
18 *insurance contracts, accident and health insurance contracts, or*  
19 *deposit-type contracts in this state and subject to regulation by*  
20 *the commissioner shall annually submit the opinion of the*  
21 *appointed actuary as to whether the reserves and related actuarial*  
22 *items held in support of the policies and contracts are computed*  
23 *appropriately, are based on assumptions that satisfy contractual*  
24 *provisions, are consistent with prior reported amounts, and comply*  
25 *with applicable laws of this state. The valuation manual shall*  
26 *prescribe the specifics of this opinion including any items deemed*  
27 *to be necessary to its scope.*

28 *(2) For an actuarial analysis of reserves and assets supporting*  
29 *reserves, every company with outstanding life insurance contracts,*  
30 *accident and health insurance contracts or deposit-type contracts*  
31 *in this state and subject to regulation by the commissioner, except*  
32 *as exempted in the valuation manual, shall also annually include*  
33 *in the opinion required by paragraph (1) an opinion of the same*  
34 *appointed actuary as to whether the reserves and related actuarial*  
35 *items held in support of the policies and contracts specified in the*  
36 *valuation manual, when considered in light of the assets held by*  
37 *the company with respect to the reserves and related actuarial*  
38 *items, including, but not limited to, the investment earnings on the*  
39 *assets and the considerations anticipated to be received and*  
40 *retained under the policies and contracts, adequately provide for*

1 *the company's obligations under the policies and contracts,*  
2 *including, but not limited to, the benefits under and expenses*  
3 *associated with the policies and contracts.*

4 ~~(d) The~~

5 *(3) Every opinion required by subdivision (b) this subdivision*  
6 *shall be governed by all both of the following provisions:*

7 ~~(1)~~

8 *(A) A memorandum, in form and substance as specified in the*  
9 *valuation manual, and acceptable to the commissioner as specified*  
10 *by regulation, commissioner, shall be prepared to support each*  
11 *actuarial opinion.*

12 ~~(2)~~

13 *(B) If the insurer insurance company fails to provide a*  
14 *supporting memorandum at the request of the commissioner within*  
15 *a period specified by regulation in the valuation manual, or the*  
16 *commissioner determines that the supporting memorandum*  
17 *provided by the insurer insurance company fails to meet the*  
18 *standards prescribed by the regulations valuation manual or is*  
19 *otherwise unacceptable to the commissioner, the commissioner*  
20 *may engage a qualified actuary at the expense of the insurer*  
21 *company to review the opinion and the basis for the opinion and*  
22 *prepare the supporting memorandum as is required by the*  
23 *commissioner.*

24 *(4) Every opinion subject to this subdivision shall be governed*  
25 *by the following provisions:*

26 *(A) The opinion shall be in form and substance as specified in*  
27 *the valuation manual and acceptable to the commissioner.*

28 *(B) The opinion shall be submitted with the annual statement*  
29 *reflecting the valuation of the reserve liabilities for each year*  
30 *ending on or after the operative date of the valuation manual.*

31 *(C) The opinion shall apply to all policies and contracts subject*  
32 *to paragraph (2), plus other actuarial liabilities as may be specified*  
33 *in the valuation manual.*

34 *(D) The opinion shall be based on standards adopted from time*  
35 *to time by the Actuarial Standards Board or its successor, and on*  
36 *such additional standards as may be prescribed in the valuation*  
37 *manual.*

38 *(E) If an opinion is required to be submitted by a foreign or*  
39 *alien company, the commissioner may accept the opinion filed by*  
40 *that company with the insurance supervisory official of another*



1 *state if the commissioner determines that the opinion reasonably*  
 2 *meets the requirements applicable to a company domiciled in this*  
 3 *state.*

4 *(F) The qualified actuary shall be liable for his or her*  
 5 *negligence or other tortious conduct.*

6 *(G) Disciplinary action by the commissioner against the*  
 7 *company or the appointed actuary may be defined in regulations*  
 8 *by the commissioner.*

9 SEC. 7. Section 10489.2 of the Insurance Code is amended to  
 10 read:

11 10489.2. *For a computation of minimum standard, except as*  
 12 *provided in Sections 10489.3, 10489.4, and 10489.95, the minimum*  
 13 *standard for the valuation of policies and contracts issued prior*  
 14 *to the effective date of the amendments to this section shall be that*  
 15 *provided by the laws in effect immediately prior to that date. Except*  
 16 *as otherwise provided in Sections 10489.3, 10489.4, and 10489.95,*  
 17 *the minimum standard for the valuation of all such those policies*  
 18 *and contracts shall be the commissioners reserve valuation methods*  
 19 *defined in Sections 10489.5, 10489.6, 10489.9, and 10489.95, 3 ½*  
 20 *percent per annum interest, except that the interest specified in*  
 21 *subdivisions (c) and (d) may be used for certain annuity and pure*  
 22 *endowment contracts, or in the case of life insurance policies and*  
 23 *contracts, other than certain annuity and pure endowment*  
 24 *contracts, issued on or after January 1, 1970, 4 percent per annum*  
 25 *interest for such policies issued or contracts entered into on or after*  
 26 *January 1, 1970, but prior to January 1, 1980, 5 ½ percent per*  
 27 *annum interest for policies issued prior to January 1, 1980, 5 ½*  
 28 *percent per annum interest may be used for single premium life*  
 29 *insurance policies and 4 ½ percent per annum interest for all other*  
 30 *such policies issued on or after January 1, 1980, and the following*  
 31 *tables:*

32 *(a) For all ordinary policies of life insurance issued on the*  
 33 *standard basis, excluding any disability and accidental death*  
 34 *benefits in such those policies—the Commissioners 1941 Standard*  
 35 *Ordinary Mortality Table for such policies issued prior to the*  
 36 *operative date of subdivision (a) of Section 10163.1, and the*  
 37 *Commissioners 1958 Standard Ordinary Mortality Table for such*  
 38 *policies issued on or after such the operative date of subdivision*  
 39 *(a) of Section 10163.1, as amended by Chapter 940 of the Statutes*  
 40 *of 1982, and prior to the operative date of Section 10163.2, as*

1 *amended by Chapter 28 of the Statutes of 1997*, provided that for  
2 any category of ~~such~~ policies issued on female risks, all modified  
3 net premiums and present values referred to in ~~Sections 10489.5,~~  
4 ~~and 10489.9~~ *this article* may be ~~calculated, at the option of the~~  
5 ~~insurer, calculated~~ according to an age not more than six years  
6 younger than the actual age of the ~~insured; and for such insured.~~  
7 For policies issued on or after the operative date of Section  
8 10163.2, as amended ~~(i) the~~ *by Chapter 28 of the Statutes of 1997,*  
9 *the following shall apply:*

10 (1) ~~The Commissioners 1980 Standard Ordinary Mortality Table,~~  
11 ~~or (ii) at Table.~~

12 (2) *At the election of the company for any one or more specified*  
13 *plans of life insurance, the Commissioners 1980 Standard Ordinary*  
14 *Mortality Table with Ten-Year Select Mortality Factors, or (iii)*  
15 *any Factors.*

16 (3) *Any ordinary mortality table, adopted after 1980 by the*  
17 *National Association of Insurance Commissioners, or its successor,*  
18 *that is approved by regulation promulgated or bulletin issued by*  
19 *the commissioner for use in determining the minimum standard*  
20 *of valuation for such policies.*

21 (b) ~~For all industrial life insurance policies issued on the~~  
22 ~~standard basis, excluding any disability and accidental death~~  
23 ~~benefits in such the policies, the 1941 Standard Industrial Mortality~~  
24 ~~Table for such policies issued prior to the operative date of~~  
25 ~~subdivision (b) of Section 10163.1, of the Standard Nonforfeiture~~  
26 ~~Law for Life Insurance as amended, and for such policies issued~~  
27 ~~on or after such the operative date the Commissioners 1961~~  
28 ~~Standard Industrial Mortality Table or any industrial mortality~~  
29 ~~table; table adopted after 1980 by the National Association of~~  
30 ~~Insurance Commissioners, or its successor NAIC that is approved~~  
31 ~~by regulation promulgated or bulletin issued by the commissioner~~  
32 ~~for use in determining the minimum standard of valuation for such~~  
33 ~~the policies.~~

34 (c) *For individual annuity and pure endowment contracts issued*  
35 *prior to the compliance date of Section 10489.3, excluding any*  
36 *disability and accidental death benefits in such policies—the the*  
37 *policies: 1937 Standard Annuity Mortality Table or, at the option*  
38 *of the company, the Annuity Mortality Table for 1949, ultimate,*  
39 *Ultimate, or any modification of these tables approved by the*  
40 *commissioner. However, the minimum standard for such contracts*

1 issued from January 1, 1968, through December 31, 1968, with  
2 commencement of benefits deferred not more than one year from  
3 date of issue, may be, at the option of the company, 4 percent per  
4 annum interest, and for contracts issued from January 1, 1969, to  
5 the compliance date of Section 10489.3, with commencement of  
6 benefits deferred not more than 10 years from date of issue and  
7 with premiums payable in one sum may be, at the option of the  
8 company, 5 percent per annum interest.

9 (d) For group annuity and pure endowment contracts, excluding  
10 any disability and accidental death benefits in ~~such policies—the~~  
11 *the policies: the* Group Annuity Mortality Table for 1951, ~~any a~~  
12 modification of ~~such the~~ table approved by the commissioner, or,  
13 at the option of the company, any of the tables or modifications  
14 of the tables specified for individual annuity and pure endowment  
15 contracts. However, the minimum standard for annuities and pure  
16 endowments purchased or to be purchased prior to the compliance  
17 date of Section 10489.3, under group annuity and pure endowment  
18 contracts with considerations received on or after January 1, 1968,  
19 through December 31, 1968, may be, at the option of the company,  
20 4 percent per annum interest, and for annuities and pure  
21 endowments purchased or to be purchased prior to the compliance  
22 date of Section 10489.3, under group annuity and pure endowment  
23 contracts with considerations received from January 1, 1969, to  
24 the compliance date of Section 10489.3, may be at the option of  
25 the company, 5 percent per annum interest.

26 (e) For total and permanent disability benefits in or  
27 supplementary to ordinary policies or ~~contracts—for contracts:~~  
28 *for* policies or contracts issued on or after January 1, 1966, the  
29 tables of Period 2 disablement rates and the 1930 to 1950  
30 termination rates of the 1952 Disability Study of the Society of  
31 Actuaries, with due regard to the type of benefit or any tables of  
32 disablement rates and termination rates, adopted after 1980 by the  
33 ~~National Association of Insurance Commissioners, or its successor,~~  
34 *NAIC* that are approved by regulation promulgated or bulletin  
35 issued by the commissioner for use in determining the minimum  
36 standard of valuation for ~~such those~~ policies; for policies or  
37 contracts issued on or after January 1, 1961, and prior to January  
38 1, 1966, either ~~such those~~ tables or, at the option of the company,  
39 the Class (3) Disability Table (1926); and for policies issued prior  
40 to January 1, 1961, the Class (3) Disability Table (1926). Any such

1 table ~~shall~~ *shall*, for active lives, be combined with a mortality  
2 table permitted for calculating the reserves for life insurance  
3 policies.

4 (f) For accidental death benefits in or supplementary to policies  
5 ~~for policies issued on or after January 1, 1966, 1966: the 1959~~  
6 ~~Accidental Death Benefits Table or any accidental death benefits~~  
7 ~~table, adopted after 1980 by the National Association of Insurance~~  
8 ~~Commissioners, or its successor, NAIC that is approved by~~  
9 ~~regulation promulgated or bulletin issued by the commissioner for~~  
10 ~~use in determining the minimum standard of valuation for such~~  
11 ~~policies; those policies, for policies issued on or after January 1,~~  
12 ~~1961, and prior to January 1, 1966, either such that table or, at the~~  
13 ~~option of the company, the Inter-Company Double Indemnity~~  
14 ~~Mortality Table; and for policies issued prior to January 1, 1961,~~  
15 ~~the Inter-Company Double Indemnity Mortality Table. Either table~~  
16 ~~shall be combined with a mortality table permitted for calculating~~  
17 ~~the reserves for life insurance policies.~~

18 (g) For group life insurance, life insurance issued on the  
19 substandard basis and other special ~~benefits, such benefits:~~ tables  
20 as may be approved by the commissioner.

21 (h) ~~With the adoption of tables by the National Association of~~  
22 ~~Insurance Commissioners after 1980, the The commissioner may,~~  
23 ~~by regulation or bulletin, may by bulletin withdraw approval of~~  
24 ~~the use of previously adopted to tables replaced by the newly~~  
25 ~~adopted tables.~~

26 SEC. 8. Section 10489.3 of the Insurance Code is amended to  
27 read:

28 10489.3. (a) Except as provided in Section 10489.4, the  
29 minimum standard ~~for the of valuation of all for~~ individual annuity  
30 and pure endowment contracts issued on or after the ~~compliance~~  
31 ~~operative date of Section 10489.3, the amendments made to this~~  
32 ~~section by the act that added subdivision (b) and for all annuities~~  
33 ~~and pure endowments purchased on or after the compliance that~~  
34 ~~operative date of Section 10489.3, under group annuity and pure~~  
35 ~~endowment contracts, shall be the commissioners reserve valuation~~  
36 ~~methods defined in Sections 10489.5 and 10489.6, 10489.6 and~~  
37 ~~the following tables and interest rates:~~

38 (a)

39 (1) For individual annuity and pure endowment contracts issued  
40 prior to January 1, 1980, excluding any disability and accidental

1 death benefits in ~~such~~ *those* contracts, the Individual Annuity  
2 Mortality Table for 1971, or any modification of ~~such~~ *this* table  
3 approved by the commissioner, and an interest rate of:

4 (1) ~~Six percent per annum for all such contracts with~~  
5 commencement of benefits deferred not more than 10 years from  
6 date of issue and with premiums payable in one sum.

7 (2) ~~Four~~ 6 percent per annum interest rate for all contracts with  
8 commencement of benefits deferred not more than 10 years from  
9 the date of issue and with premiums payable in one sum and 4  
10 percent per annum interest for all other ~~such~~ *individual annuity*  
11 and pure endowment contracts.

12 (b)

13 (2) For individual single premium immediate annuity contracts  
14 issued on or after January 1, 1980, excluding any disability and  
15 accidental death benefits in ~~such contracts~~, *those contracts*: the  
16 1971 Individual Annuity Mortality Table for 1971 or any individual  
17 annuity mortality table, table adopted after 1980 by the National  
18 Association of Insurance Commissioners, or its successor, NAIC  
19 that is approved by regulation promulgated or bulletin issued by  
20 the commissioner for use in determining the minimum standard  
21 of valuation for ~~such~~ *these* contracts, or any modification of these  
22 tables approved by the commissioner, and 7 ½ percent per annum  
23 interest.

24 (c)

25 (3) For individual annuity and pure endowment contracts issued  
26 on or after January 1, 1980, other than single premium immediate  
27 annuity contracts, excluding any disability and accidental death  
28 benefits in ~~such those~~ contracts, the ~~individual 1971 Individual~~  
29 Annuity Mortality Table for 1971 or any individual annuity  
30 mortality table, adopted after 1980 by the National Association of  
31 Insurance Commissioners, or its successor, NAIC that is approved  
32 by regulation promulgated or bulletin issued by the commissioner  
33 for use in determining the minimum standard of valuation for ~~such~~  
34 *those* contracts, or any modification of these tables approved by  
35 the commissioner, and 5 ½ percent per annum interest for single  
36 premium deferred annuity and pure endowment contracts and 4 ½  
37 percent per annum interest for all other ~~such~~ *individual annuity*  
38 and pure endowment contracts.

39 (d) For all

1 (4) For annuities and pure endowments purchased prior to  
2 January 1, 1980, under group annuity and pure endowment  
3 contracts, excluding any disability and accidental death benefits  
4 purchased under ~~such contracts~~, *those contracts*: the 1971 Group  
5 Annuity Mortality Table for 1971, *Table* or any modification of  
6 this table approved by the commissioner, and 6 percent per annum  
7 interest.

8 ~~(e) For all~~

9 (5) For annuities and pure endowments purchased on or after  
10 January 1, 1980, under group annuity and pure endowment  
11 contracts, excluding any disability and accidental death benefits  
12 purchased under ~~such contracts~~, *those contracts*: the 1971 Group  
13 Annuity Mortality Table for 1971, *Table*, or any group annuity  
14 mortality ~~table~~, *table* adopted after 1980 by the ~~National~~  
15 ~~Association of Insurance Commissioners, or its successor, NAIC~~  
16 that is approved by regulation promulgated or bulletin issued by  
17 the commissioner for use in determining the minimum standard  
18 of valuation for ~~such~~ annuities and pure endowments, or any  
19 modification of these tables approved by the commissioner, and  
20 7½ percent ~~per annum~~ interest.

21 ~~All~~

22 (6) All individual annuity and pure endowment contracts entered  
23 into prior to January 1, 1980, and all annuities and pure  
24 endowments purchased prior to January 1, 1980, under group  
25 annuity and pure endowment contracts shall remain subject to the  
26 provisions of Article 3A (commencing with Section 10489.1) as  
27 it existed prior to January 1, 1980.

28 ~~(f) With the adoption of tables by the National Association of~~  
29 ~~Insurance Commissioners after 1980, the~~

30 ~~(b) The commissioner may, by regulation or bulletin, may, by~~  
31 ~~bulletin, withdraw approval of the to use of previously adopted~~  
32 ~~tables replaced by the newly adopted tables.~~

33 SEC. 9. Section 10489.4 is added to the Insurance Code, to  
34 read:

35 10489.4. (a) For the computation of minimum standard by  
36 calendar year of issue, the interest rates used in determining the  
37 minimum standard for the valuation of the following shall be the  
38 calendar year statutory valuation interest rates as defined in this  
39 section:

(1) Life insurance policies issued in a particular calendar year, on or after the operative date of Section 10163.2 as amended by Section 28 of the Statutes of 1997.

(2) Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982.

(3) Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts.

(4) The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts.

(b) (1) For the calendar year statutory valuation interest rates, expressed in the following formulas as “I,” shall be determined as follows and the results rounded to the nearest one-fourth of 1 percent:

(A) For life insurance:

$$I = .03 + W(R_1 - .03) + \frac{W}{2}(R_2 - .09)$$

Where

$R_1$  is the lesser of  $R$  and .09,

$R_2$  is the greater of  $R$  and .09,

$R$  is the reference interest rate defined in this section,

$W$  is the weighting factor defined in this section.

(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W(R - .03)$$

Where

$R$  is the reference interest rate defined in this section,

$W$  is the weighting factor defined in this section.

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph (B), the formula for life insurance stated in subparagraph (A) shall apply

1 to annuities and guaranteed interest contracts with guarantee  
 2 durations in excess of 10 years and the formula for single premium  
 3 immediate annuities stated in subparagraph (B) shall apply to  
 4 annuities and guaranteed interest contracts with guarantee duration  
 5 of 10 years or less.

6 (D) For other annuities with no cash settlement options and for  
 7 guaranteed interest contracts with no cash settlement options, the  
 8 formula for single premium immediate annuities stated in  
 9 subparagraph (B) shall apply.

10 (E) For other annuities with cash settlement options and  
 11 guaranteed interest contracts with cash settlement options, valued  
 12 on a change in fund basis, the formula for single premium  
 13 immediate annuities stated in subparagraph (B) shall apply.

14 (2) However, if the calendar year statutory valuation interest  
 15 rate for a life insurance policy issued in any calendar year  
 16 determined without reference to this sentence differs from the  
 17 corresponding actual rate for similar policies issued in the  
 18 immediately preceding calendar year by less than one-half of 1  
 19 percent, the calendar year statutory valuation interest rate for the  
 20 life insurance policies shall be equal to the corresponding actual  
 21 rate for the immediately preceding calendar year. For purposes of  
 22 applying the immediately preceding sentence, the calendar year  
 23 statutory valuation interest rate for life insurance policies issued  
 24 in a calendar year shall be determined for 1980 (using the reference  
 25 interest rate defined in 1979) and shall be determined for each  
 26 subsequent calendar year regardless of when Section 10163.2, as  
 27 amended by Chapter 28 of the Statutes of 1997, becomes operative.

28 (c) The weighting factors referred to in the formulas stated above  
 29 are given in the following tables:

30 (1) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less .....	.50
More than 10, but not more than 20 .....	.45
More than 20 .....	.35

36  
 37 For life insurance, the guarantee duration is the maximum  
 38 number of years the life insurance can remain in force on a basis  
 39 guaranteed in the policy or under options to convert to plans of



life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(2) Weighting factors for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options shall be .80.

(3) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in paragraph (2), shall be as specified in subparagraphs (A), (B), and (C), according to the rules and definitions in subparagraphs (D), (E), and (F):

(A) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(B) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subparagraph (A) increased by:

Plan Type		
A	B	C
.15	.25	.05

(C) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in subparagraph (A) or derived in subparagraph (B) increased by \_\_\_\_.

(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract

1 guarantees interest rates in excess of the calendar year statutory  
2 valuation interest rate for life insurance policies with guarantee  
3 duration in excess of 20 years. For other annuities with no cash  
4 settlement options and for guaranteed interest contracts with no  
5 cash settlement options, the guaranteed duration is the number of  
6 years from the date of issue or date of purchase to the date annuity  
7 benefits are scheduled to commence.

8 (E) Plan type as used in the above tables is defined as follows:

9 (i) For Plan Type A: At any time a policyholder may withdraw  
10 funds only (I) with an adjustment to reflect changes in interest  
11 rates or asset values since receipt of the funds by the insurance  
12 company, (II) without an adjustment but installments over five  
13 years or more, (III) as an immediate life annuity, or (IV) no  
14 withdrawal permitted.

15 (ii) For Plan Type B: Before expiration of the interest rate  
16 guarantee, a policyholder may withdraw funds only (I) with an  
17 adjustment to reflect changes in interest rates or asset values since  
18 receipt of the funds by the insurance company, (II) without an  
19 adjustment but in installments over five years or more, or (III) no  
20 withdrawal permitted. At the end of the interest rate guarantee,  
21 funds may be withdrawn without an adjustment in a single sum or  
22 installments over less than five years.

23 (iii) For Plan Type C: Policyholder may withdraw funds before  
24 expiration of interest rate guarantee in a single sum or installments  
25 over less than five years either (I) without adjustment to reflect  
26 changes in interest rates or asset values since receipt of the funds  
27 by the insurance company, or (II) subject only to a fixed surrender  
28 charge stipulated in the contract as a percentage of the fund.

29 (F) A company may elect to value guaranteed interest contracts  
30 with cash settlement options and annuities with cash settlement  
31 options on either an issue year basis or on a change in fund basis.  
32 Guaranteed interest contracts with no cash settlement options and  
33 other annuities with no cash settlement options shall be valued on  
34 an issue year basis. As used in this section, an issue year basis of  
35 valuation refers to a valuation basis under which the interest rate  
36 used to determine the minimum valuation standard for the entire  
37 duration of the annuity or guaranteed interest contract is the  
38 calendar year valuation interest rate for the year of issue or year  
39 of purchase of the annuity or guaranteed interest contract, and the  
40 change in fund basis of valuation refers to a valuation basis under

1 which the interest rate used to determine the minimum valuation  
2 standard applicable to each change in the fund held under the  
3 annuity or guaranteed interest contract is the calendar year  
4 valuation interest rate for the year of the change in the fund.

5 (d) The reference interest rate referred to in subdivision (b) shall  
6 be defined as follows:

7 (1) For life insurance, the lesser of the average over a period of  
8 36 months and the average over a period of 12 months, ending on  
9 June 30 of the calendar year preceding the year of issue, of the  
10 monthly average of the composite yield on seasoned corporate  
11 bonds, as published by Moody's Investors Service, Inc.

12 (2) For single premium immediate annuities and for annuity  
13 benefits involving life contingencies arising from other annuities  
14 with cash settlement options and guaranteed interest contracts with  
15 cash settlement options, the average over a period of 12 months,  
16 ending on June 30 of the calendar year of issue or year of purchase,  
17 of the monthly average of the composite yield on seasoned  
18 corporate bonds, as published by Moody's Investors Service, Inc.

19 (3) For other annuities with cash settlement options and  
20 guaranteed interest contracts with cash settlement options, valued  
21 on a year of issue basis, except as stated in subdivision (b), with  
22 guarantee duration in excess of 10 years, the lesser of the average  
23 over a period of 36 months and the average over a period of 12  
24 months, ending on June 30 of the calendar year of issue or  
25 purchase, of the monthly average of the composite yield on  
26 seasoned corporate bonds, as published by Moody's Investors  
27 Service, Inc.

28 (4) For other annuities with cash settlement options and  
29 guaranteed interest contracts with cash settlement options, valued  
30 on a year of issue basis, except as stated in subparagraph (B) of  
31 paragraph (1) of subdivision (c), with guarantee duration of 10  
32 years or less, the average over a period of 12 months, ending on  
33 June 30 of the calendar year of issue or purchase, of the monthly  
34 average of the composite yield on seasoned corporate bonds, as  
35 published by Moody's Investors Service, Inc.

36 (5) For other annuities with no cash settlement options and for  
37 guaranteed interest contracts with no cash settlement options, the  
38 average over a period of 12 months, ending on June 30 of the  
39 calendar year of issue or purchase, of the monthly average of the

1 composite yield on seasoned corporate bonds, as published by  
2 Moody's Investors Service, Inc.

3 (6) For other annuities with cash settlement options and  
4 guaranteed interest contracts with cash settlement options, valued  
5 on a change in fund basis, except as stated in subparagraph (B) of  
6 paragraph (1) of subdivision (c), the average over a period of 12  
7 months, ending on June 30 of the calendar year of the change in  
8 the fund, of the monthly average of the composite yield on  
9 seasoned corporate bonds, as published by Moody's Investors  
10 Service, Inc.

11 (e) As an alternative method for determining reference interest  
12 rates, in the event that the monthly average of the composite yield  
13 on seasoned corporate bonds is no longer published by Moody's  
14 Investors Service, Inc., or in the event that the NAIC determines  
15 that the monthly average of the composite yield on seasoned  
16 corporate bonds as published by Moody's Investors Service, Inc.,  
17 is no longer appropriate for the determination of the reference  
18 interest rate, then an alternative method for determination of the  
19 reference interest rate adopted by the NAIC and approved by  
20 regulation promulgated by the commissioner may be substituted.

21 (f) This section shall apply to all certificates and contracts issued  
22 by a fraternal benefit society.

23 SEC. 10. Section 10489.5 of the Insurance Code is amended  
24 to read:

25 10489.5. (a) Except as otherwise provided in Sections 10489.6,  
26 10489.9, and ~~10489.95~~, 10489.95, reserves according to the  
27 commissioners reserve valuation method, for the life insurance  
28 and endowment benefits of policies providing for a uniform amount  
29 of insurance and requiring the payment of uniform premiums shall  
30 be the excess, if any, of the present value, at the date of valuation,  
31 of ~~such~~ the future guaranteed benefits provided for by ~~such~~ those  
32 policies, over the then present value of any future modified net  
33 premiums therefor. The modified net premiums for ~~any such a~~  
34 policy shall be ~~such~~ the uniform percentage of the respective  
35 contract premiums for ~~such~~ the benefits *such* that the present value,  
36 at the date of issue of the policy, of all ~~such~~ modified net premiums  
37 shall be equal to the sum of the then present value of ~~such~~ the  
38 benefits provided for by the policy and the excess of ~~(a) of (b);~~  
39 *paragraph (1) over paragraph (2)*, as follows:

40 (a)

(1) A net level annual premium equal to the present value, at the date of issue of ~~such~~ of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of ~~such~~ the policy on which a premium falls ~~due; except that such~~ due. However, the net level annual premium shall not exceed the net level annual ~~premium~~, premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of ~~such~~ the policy.

(b)  
(2) A net one-year term premium for ~~such~~ the benefits provided for in the first policy year.

~~Provided that for any life~~

(b) For a life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for ~~such~~ the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than ~~such~~ the excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than ~~such~~ the excess premium shall, except as otherwise provided in Section 10489.9, be the greater of the reserve as of ~~such~~ the policy anniversary calculated as described in ~~the first paragraph of this section~~ subdivision (a) and the reserve as of ~~such~~ the policy anniversary calculated as described in ~~the first paragraph of this section~~, subdivision (a), but with—(i) (1) the value defined in subparagraph (a) of that paragraph paragraph (1) of subdivision (a) being reduced by 15 percent of the amount of ~~such~~ the excess first year premium,—(ii) (2) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) (3) the policy being assumed to mature on ~~such~~ that date as an endowment, and—(iv) (4) the cash surrender value provided on ~~such~~ that date being considered as an endowment benefit. In

1 making the above comparison the mortality and interest bases  
2 stated in Sections 10489.2 and 10489.4 shall be used.

3 **Reserves**

4 (c) *Reserves* according to the commissioners reserve valuation  
5 method ~~for (1) life shall be calculated by a method consistent with~~  
6 ~~subdivisions (a) and (b) for the following:~~

7 (1) *Life* insurance policies providing for a varying amount of  
8 insurance or requiring the payment of varying premiums, ~~(2) group~~  
9 ~~premiums.~~

10 (2) *Group* annuity and pure endowment contracts purchased  
11 under a retirement plan or plan of deferred compensation,  
12 established or maintained by an employer (including a partnership  
13 or sole proprietorship) or by an employee organization, or by both,  
14 other than a plan providing individual retirement accounts or  
15 individual retirement annuities under Section 408 of the Internal  
16 Revenue Code, as ~~now or hereafter amended;~~ ~~(3) disability~~  
17 ~~amended.~~

18 (3) *Disability* and accidental death benefits in all policies and  
19 ~~contracts; and (4) all contracts.~~

20 (4) *All* other benefits, except life insurance and endowment  
21 benefits in life insurance policies and benefits provided by all other  
22 annuity and pure endowment contracts, ~~shall be calculated by a~~  
23 ~~method consistent with the principles of the preceding paragraphs~~  
24 ~~of this section,~~ except that any extra premiums charged because  
25 of impairments or special hazards shall be disregarded in the  
26 determination of modified net premiums.

27 SEC. 11. Section 10489.6 of the Insurance Code is amended  
28 to read:

29 10489.6. (a) This section shall apply to all annuity and pure  
30 endowment contracts other than group annuity and pure endowment  
31 contracts purchased under a retirement plan or plan of deferred  
32 compensation, established or maintained by an employer (including  
33 a partnership or sole proprietorship) or by an employee  
34 organization, or by both, other than a plan providing individual  
35 retirement accounts or individual retirement annuities under Section  
36 408 of the Internal Revenue Code, as now or hereafter amended.

37 **Reserves**

38 (b) *Reserves* according to the commissioners annuity reserve  
39 method for benefits under annuity or pure endowment contracts,  
40 excluding any disability and accidental death benefits in ~~such the~~

contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by ~~such the~~ contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of ~~such the~~ contract, that become payable prior to the end of ~~such the~~ respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in ~~such the~~ contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of ~~such the~~ contracts to determine nonforfeiture values.

SEC. 12. Section 10489.7 of the Insurance Code is amended to read:

10489.7. (a) ~~In no event shall an insurer's~~ A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, *shall not* be less than the aggregate reserves calculated in accordance with the methods set forth in Sections 10489.5, 10489.6, 10489.9, and 10489.93 and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for ~~such the~~ policies.

(b) ~~In no event shall the~~ The aggregate reserves for all policies, contracts, and benefits *shall not* be less than the aggregate reserves determined by the ~~qualified~~ *appointed* actuary to be necessary to render the opinion required by Section 10489.15.

SEC. 13. Section 10489.8 of the Insurance Code is amended to read:

10489.8. (a) Reserves for any category of policies, ~~contracts~~ *contracts*, or benefits ~~as established by the commissioner~~ may be calculated, at the option of the ~~insurer,~~ *company*, according to any standards ~~which that~~ produce greater aggregate reserves for ~~such the~~ category than those calculated according to the minimum standard ~~herein provided,~~ *provided in this article*, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ *greater* than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided ~~for therein.~~ *in the policies or contracts.*

1 ~~Any such company~~

2 ~~(b) A company, which adopts at any time shall have adopted~~  
3 ~~any a standard of valuation producing greater aggregate reserves~~  
4 ~~than those calculated according to the minimum standard provided~~  
5 ~~in this article may, with the approval of the commissioner, adopt~~  
6 ~~any under this article, may adopt a lower standard of valuation~~  
7 ~~with the approval of the commissioner, but not lower than the~~  
8 ~~minimum provided in this article. However, article unless, for the~~  
9 ~~purposes of this section, the holding of additional reserves~~  
10 ~~previously determined by a qualified actuary to be necessary to~~  
11 ~~render the opinion required by Section 10489.15 shall not be~~  
12 ~~deemed to be the adoption of a higher standard of valuation.~~

13 SEC. 14. Section 10489.9 of the Insurance Code is amended  
14 to read:

15 10489.9. (a) If in any contract year the gross premium charged  
16 by any life insurer on any policy or contract is less than the  
17 valuation net premium for the policy or contract calculated by the  
18 method used in calculating the reserve thereon but using the  
19 minimum valuation standards of mortality and rate of interest, the  
20 minimum reserve required for such policy or contract shall be the  
21 greater of either the reserve calculated according to the mortality  
22 table, rate of interest, and method actually used for such policy or  
23 contract, or the reserve calculated by the method actually used for  
24 such policy or contract but using the minimum valuation standards  
25 of mortality and rate of interest and replacing the valuation net  
26 premium by the actual gross premium in each contract year for  
27 which the valuation net premium exceeds the actual gross premium.  
28 *The minimum valuation standards of mortality and rate of interest*  
29 *referred to in this section are those standards stated in Sections*  
30 *10489.2, 10489.3, and 1489.4.*

31 ~~Provided that for any~~

32 (b) *For a life insurance policy issued on or after January 1,*  
33 *1986, for which the gross premium in the first policy year exceeds*  
34 *that of the second year and for which no comparable additional*  
35 *benefit is provided in the first year for such excess and which*  
36 *provides an endowment benefit or a cash surrender value or a*  
37 *combination thereof in an amount greater than such excess*  
38 *premium, the foregoing provisions of this section shall be applied*  
39 *as if the method actually used in calculating the reserve for such*  
40 *policy were the method described in Section 10489.5, ignoring*



1 the second paragraph of Section 10489.5. The minimum reserve  
2 at each policy anniversary of such a policy shall be the greater of  
3 the minimum reserve calculated in accordance with Section  
4 10489.5, including the second paragraph of that section, and the  
5 minimum reserve calculated in accordance with this section.

6 SEC. 15. Section 10489.93 of the Insurance Code is amended  
7 to read:

8 10489.93. In the case of ~~any~~ a plan of life insurance that  
9 provides for future premium determination, the amounts of which  
10 are to be determined by the insurance company based on then  
11 estimates of future experience, or in the case of ~~any~~ a plan of life  
12 insurance or annuity that is of ~~such~~ a nature that the minimum  
13 reserves cannot be determined by the methods described in Sections  
14 10489.5, 10489.6, and 10489.9, the reserves ~~which~~ *that* are held  
15 under ~~any such plan must: the plan shall:~~

16 (a) Be appropriate in relation to the benefits and the pattern of  
17 premiums for that plan; and

18 (b) Be computed by a method ~~which~~ *that* is consistent with the  
19 principles of this Standard Valuation Law, as determined by  
20 regulations promulgated by the commissioner.

21 SEC. 16. Section 10489.95 of the Insurance Code is repealed.

22 ~~10489.95. The commissioner shall adopt a regulation~~  
23 ~~concerning the minimum standards applicable to the valuation of~~  
24 ~~disability insurance.~~

25 SEC. 17. Section 10489.95 is added to the Insurance Code, to  
26 read:

27 10489.95. For accident and health insurance contracts issued  
28 on or after the operative date of the valuation manual, the standard  
29 prescribed in the valuation manual is the minimum standard of  
30 valuation required under subdivision (b) of Section 10489.12. For  
31 disability and accident and health insurance contracts issued prior  
32 to the operative date of the valuation manual, the minimum  
33 standard of valuation is the standard adopted by the commissioner  
34 by regulation.

35 SEC. 18. Section 10489.96 is added to the Insurance Code, to  
36 read:

37 10489.96. (a) For policies issued on or after the operative date  
38 of the valuation manual, the standard prescribed in the valuation  
39 manual is the minimum standard of valuation required under

1 subdivision (b) of Section 10489.12, except as provided under  
2 subdivision (e) or (g).

3 (b) The operative date of the valuation manual is January 1 of  
4 the first calendar year following the first July 1 as of which all the  
5 following have occurred:

6 (1) The valuation manual has been adopted by the NAIC by an  
7 affirmative vote of at least 42 members, or three-fourths of the  
8 members voting, whichever is greater.

9 (2) The Standard Valuation Law, as amended by the NAIC in  
10 2009, or legislation including substantially similar terms and  
11 provisions, has been enacted by states representing greater than  
12 75 percent of the direct premiums written as reported in the  
13 following annual statements submitted for 2008: life, accident,  
14 and health annual statements, health annual statements, or fraternal  
15 annual statements.

16 (3) The Standard Valuation Law, as amended by the NAIC in  
17 2009, or legislation including substantially similar terms and  
18 provisions, has been enacted by at least 42 of the following 55  
19 jurisdictions: The 50 States of the United States, American Samoa,  
20 the American Virgin Islands, the District of Columbia, Guam, and  
21 Puerto Rico.

22 (c) Unless a change in the valuation manual specifies a later  
23 effective date, changes to the valuation manual shall be effective  
24 on January 1 following the date when all of the following have  
25 occurred:

26 (1) The change to the valuation manual has been adopted by  
27 the NAIC by an affirmative vote representing:

28 (A) At least three-fourths of the members of the NAIC voting,  
29 but not less than a majority of the total membership.

30 (B) Members of the NAIC representing jurisdictions totaling  
31 greater than 75 percent of the direct premiums written as reported  
32 in the following annual statements most recently available prior  
33 to the vote in subparagraph (A): life, accident, and health annual  
34 statement, health annual statements, or fraternal annual statements.

35 (2) The valuation manual becomes effective pursuant to an order  
36 adopted by the commissioner, which shall not be subject to Chapter  
37 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
38 Title 2 of the Government Code.

39 (d) The valuation manual shall specify all of the following:

1 (1) Minimum valuation standards for and definitions of the  
2 policies or contracts subject to subdivision (b) of Section 10489.12.  
3 Those minimum valuation standards shall be:

4 (A) The commissioners reserve valuation method for life  
5 insurance contracts, other than annuity contracts, subject to  
6 subdivision (b) of Section 10489.12.

7 (B) The commissioners annuity reserve valuation method for  
8 annuity contracts subject to subdivision (b) of Section 10489.12.

9 (C) Minimum reserves for all other policies or contracts subject  
10 to subdivision (b) of Section 10489.12.

11 (2) Which policies or contracts or types of policies or contracts  
12 that are subject to the requirements of a principle-based valuation  
13 in subdivision (a) of Section 10489.97 and the minimum valuation  
14 standards consistent with those requirements.

15 (3) For policies and contracts subject to a principle-based  
16 valuation under Section 10489.97:

17 (A) Requirements for the format of reports to the commissioner  
18 under paragraph (3) of subdivision (b) of Section 10489.97, and  
19 which shall include information necessary to determine if the  
20 valuation is appropriate and in compliance with this article.

21 (B) Assumptions shall be prescribed for risks over which the  
22 company does not have significant control or influence.

23 (C) Procedures for corporate governance and oversight of the  
24 actuarial function, and a process for appropriate waiver or  
25 modification of those procedures.

26 (4) For policies not subject to a principle-based valuation under  
27 Section 10489.97, the minimum valuation standard shall be either  
28 of the following:

29 (A) Be consistent with the minimum standard of valuation prior  
30 to the operative date of the valuation manual.

31 (B) Develop reserves that quantify the benefits and guarantees,  
32 and the funding, associated with the contracts and their risks at a  
33 level of conservatism that reflects conditions that include  
34 unfavorable events that have a reasonable probability of occurring.

35 (5) Other requirements, including, but not limited to, those  
36 relating to reserve methods, models for measuring risk, generation  
37 of economic scenarios, assumptions, margins, use of company  
38 experience, risk measurement, disclosure, certifications, reports,  
39 actuarial opinions and memorandums, transition rules, and internal  
40 controls.

(6) The data and form of the data required under Section 10489.98, with whom the data is required to be submitted, and may specify other requirements including data analyses and reporting of analyses.

(e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with, or conflicts with, this code, then the company shall, with respect to those requirements, comply with the minimum valuation standards prescribed by the code or by the commissioner by regulation or bulletin.

(f) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this article. The commissioner may rely upon the opinion, regarding the provisions contained within this article, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this subdivision, the term "engage" includes employment and contracting.

(g) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this article, and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted pursuant to all other applicable law.

SEC. 19. Section 10489.97 is added to the Insurance Code, to read:

10489.97. (a) A company shall establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(1) Quantify the benefits, guarantees, and the funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

1 (2) Incorporate assumptions, risk analysis methods, and financial  
2 models and management techniques that are consistent with, but  
3 not necessarily identical to, those utilized within the company's  
4 overall risk assessment process, while recognizing potential  
5 differences in financial reporting structures and any prescribed  
6 assumptions or methods.

7 (3) Incorporate assumptions that are derived in one of the  
8 following manners:

9 (A) The assumption is prescribed in the valuation manual.

10 (B) For assumptions that are not prescribed, the assumptions  
11 shall:

12 (i) Be established utilizing the company's available experience,  
13 to the extent it is relevant and statistically credible.

14 (ii) To the extent that company data is not available, relevant,  
15 or statistically credible, be established utilizing other relevant,  
16 statistically credible experience.

17 (4) Provide margins for uncertainty including adverse deviation  
18 and estimation error, such that the greater the uncertainty the larger  
19 the margin and resulting reserve.

20 (b) A company using a principle-based valuation for one or  
21 more policies or contracts subject to this section as specified in  
22 the valuation manual shall do the following:

23 (1) Establish procedures for corporate governance and oversight  
24 of the actuarial valuation function consistent with those described  
25 in the valuation manual.

26 (2) Provide to the commissioner and the board of directors of  
27 the company an annual certification of the effectiveness of the  
28 internal controls with respect to the principle-based valuation. The  
29 controls shall be designed to assure that all material risks inherent  
30 in the liabilities and associated assets subject to such valuation are  
31 included in the valuation, and that valuations are made in  
32 accordance with the valuation manual. The certification shall be  
33 based on the controls in place as of the end of the preceding  
34 calendar year.

35 (3) Develop, and file with the commissioner upon request, a  
36 principle-based valuation report that complies with standards  
37 prescribed in the valuation manual.

38 (c) A principle-based valuation may include a prescribed  
39 formulaic reserve component.

1 SEC. 20. Section 10489.98 is added to the Insurance Code, to  
2 read:

3 10489.98. A company shall submit mortality, morbidity,  
4 policyholder behavior, or expense experience and other data as  
5 prescribed in the valuation manual.

6 SEC. 21. Section 10489.99 is added to the Insurance Code, to  
7 read:

8 10489.99. (a) For purposes of this section, “confidential  
9 information” shall mean:

10 (1) A memorandum in support of an opinion submitted under  
11 Section 10489.15 and any other documents, materials, and other  
12 information, including, but not limited to, all working papers, and  
13 copies thereof, created, produced, or obtained by or disclosed to  
14 the commissioner or any other person in connection with the  
15 memorandum.

16 (2) All documents, materials, and other information, including,  
17 but not limited to, all working papers, and copies thereof, created,  
18 produced, or obtained by or disclosed to the commissioner or any  
19 other person in the course of an examination made under  
20 subdivision (f) of Section 10489.96. However, if an examination  
21 report or other material prepared in connection with an examination  
22 made under Article 4 (commencing with Section 729) of Chapter  
23 1 of Part 2 of Division 1 is not held as private and confidential  
24 information under that article, an examination report or other  
25 material prepared in connection with an examination made under  
26 subdivision (f) of Section 10489.96 shall not be “confidential  
27 information” to the same extent as if the examination report or  
28 other material had been prepared under Article 4.

29 (3) Any reports, documents, materials, and other information  
30 developed by a company in support of, or in connection with, an  
31 annual certification by the company under paragraph (2) of  
32 subdivision (b) of Section 10489.97 evaluating the effectiveness  
33 of the company’s internal controls with respect to a principle-based  
34 valuation and any other documents, materials, and other  
35 information, including, but not limited to, all working papers, and  
36 copies thereof, created, produced, or obtained by or disclosed to  
37 the commissioner or any other person in connection with those  
38 reports, documents, materials, and other information.

39 (4) Any principle-based valuation report developed under  
40 paragraph (3) of subdivision (b) of Section 10489.97 and any other

1 documents, materials, and other information, including, but not  
2 limited to, all working papers, and copies thereof, created,  
3 produced, or obtained by or disclosed to the commissioner or any  
4 other person in connection with the report.

5 (5) All of the following:

6 (A) Any documents, materials, data, and other information  
7 submitted by a company under Section 10489.98, to be known  
8 collectively, as “experience data.”

9 (B) Experience data plus any other documents, materials, data,  
10 and other information, including, but not limited to, all working  
11 papers, and copies thereof, created or produced in connection with  
12 the experience data, in each case that includes any potentially  
13 company-identifying or personally identifiable information, that  
14 is provided to or obtained by the commissioner, to be known,  
15 collectively, as “experience materials.”

16 (C) Any other documents, materials, data, and other information,  
17 including, but not limited to, all working papers, and copies thereof,  
18 created, produced, or obtained by or disclosed to the commissioner  
19 or any other person in connection with the experience materials.

20 (b) (1) Except as provided in this section, a company’s  
21 confidential information is confidential by law and privileged, it  
22 shall not be subject to the California Public Records Act, and shall  
23 not be subject to subpoena or discovery or admissible in evidence  
24 in any private civil action. However, the commissioner is  
25 authorized to use the confidential information in a regulatory or  
26 legal action brought against the company as a part of the  
27 commissioner’s official duties.

28 (2) The commissioner, and any person who received confidential  
29 information while acting under the authority of the commissioner,  
30 shall not be permitted or required to testify in a private civil action  
31 concerning any confidential information.

32 (3) In order to assist in the performance of the commissioner’s  
33 duties, the commissioner may share confidential information with  
34 the following recipients, provided that the recipient agrees, and  
35 has the legal authority to agree, to maintain the confidentiality and  
36 privileged status of the documents, materials, data, and other  
37 information in the same manner and to the same extent as required  
38 for the commissioner:

39 (A) Other state, federal, and international regulatory agencies  
40 and with the NAIC and its affiliates and subsidiaries.

(B) In the case of confidential information specified in paragraphs (1) and (4) of subdivision (a) of Section 10489.99 only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials.

(4) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(5) The commissioner may enter into agreements governing sharing and use of information consistent with this subdivision.

(6) A waiver of any applicable privilege or claim of confidentiality in the confidentiality information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (3).

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under subdivision (b) shall be available and enforced in any proceeding in, and in any court of, this state.

(8) For purposes of this section, “regulatory agency,” “law enforcement agency,” and the “NAIC” include, but are not limited to, their employees, agents, consultants, and contractors.

(c) Notwithstanding subdivision (b), any confidential information specified in paragraphs (1) and (4) of subdivision (a):

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under Section 10489.15 or principle-based valuation report developed under paragraph (3) of subdivision (b) of Section 10489.97 by reason of an action required by this article or by regulations promulgated pursuant to this article.



1 (2) May otherwise be released by the commissioner with the  
2 written consent of the company.

3 (3) Once any portion of a memorandum in support of an opinion  
4 submitted under Section 10489.15 or a principle-based valuation  
5 report developed under paragraph (3) of subdivision (b) of Section  
6 10489.97 is cited by the company in its marketing or is publicly  
7 volunteered to or before a governmental agency other than a state  
8 insurance department or is released by the company to the news  
9 media, all portions of the memorandum or report shall no longer  
10 be confidential.

11 SEC. 22. Section 10489.992 is added to the Insurance Code,  
12 to read:

13 10489.992. (a) (1) The commissioner may hire and assign  
14 department staff, and retain nondepartment actuaries and other  
15 consultants, to assist the commissioner with preparing to implement  
16 and implementing, directly or indirectly, principle-based valuation.

17 (2) The commissioner may appoint a person to serve as an expert  
18 in preparing to implement and implementing, directly or indirectly,  
19 principle-based valuation. That person may be an employee of the  
20 department exempt from the state civil service system within the  
21 meaning of Section 4 of Article VII of the California Constitution.  
22 The person's salary or compensation shall be fixed by the  
23 commissioner and effective and payable without approval of the  
24 Department of Human Resources, pursuant to Section 19825 of  
25 the Government Code.

26 (b) (1) Notwithstanding any other law, the commissioner may  
27 annually assess all insurers that are subject to this article to defray  
28 costs the department incurs preparing to implement and  
29 implementing, directly or indirectly, principle-based valuation,  
30 including, but not limited to, department salaries and overhead,  
31 and actuary and consultant fees and expenses.

32 (2) The commissioner shall annually set an "aggregate  
33 assessment amount" and an assessment amount for each tier listed  
34 in paragraph (4). The aggregate assessment amount shall be the  
35 amount necessary to provide sufficient moneys to carry-out the  
36 projected workload to implement, directly or indirectly,  
37 principle-based valuation. The annual aggregate assessment amount  
38 shall be no less than one million dollars (\$1,000,000).

39 (3) At least 90 days before finalizing the annual aggregate  
40 assessment amount and assessment amount for the tiers listed in

paragraph (4), the commissioner shall provide notice of the commissioner's preliminary determination of those amounts. The notice shall explain how the commissioner derived the amounts and provide no less than 45 days for interested parties to provide comments.

(4) Not less than 45 days after the due date for comments specified in paragraph (3), the commissioner shall by bulletin establish the annual aggregate assessment amount according to the insurer's annual premium based on the below tiers. For purposes of this section, "annual premium" shall mean the gross annual life insurance premium written by an insurer in California during the immediately preceding year as reported in its annual statutory financial statement.

Annual Premium	Initial Annual Assessment Per Insurer
\$500,000,001 +	\$75,000
\$400,000,001 - \$500,000,000	\$50,000
\$300,000,001 - \$400,000,000	\$40,000
\$200,000,001 - \$300,000,000	\$30,000
\$150,000,001 - \$200,000,000	\$20,000
\$100,000,001 - \$150,000,000	\$10,000
\$50,000,001 - \$100,000,000	\$5,000

(5) All examinations and analyses of reserves and principle-based valuation methodologies performed under Section 730 may be at the expense of the company, organization, or person examined, pursuant to Section 736.

(c) Before retaining an independent actuary or consultant under paragraph (1) of subdivision (a), the commissioner shall require a written declaration by the actuary or consultant that:

(1) The actuary shall not disclose to another party, other than the department, and shall protect from unauthorized use, any confidential information, as defined in Section 10489.99, obtained in the course of his or her work for the commissioner, unless authorized to do so by the commissioner or required by law.

(2) The actuary or consultant shall not disclose to another party and shall protect from unauthorized use, all confidential information obtained from the department in the course of his or her work for the commissioner.

1 (d) Before retaining an independent actuary or consultant under  
2 paragraph (1) of subdivision (a), the commissioner shall require a  
3 written declaration by the actuary or consultant that:

4 (1) The actuary or consultant will not perform professional  
5 services involving an actual or potential conflict of interest unless  
6 all of the following are satisfied:

7 (A) The actuary's or consultant's ability to perform the services  
8 fairly is unimpaired.

9 (B) There has been disclosure of the conflict to all present, or  
10 known prospective, clients or employers of the actuary or  
11 consultant whose interests would be affected by the conflict.

12 (C) All present, or known prospective, clients or employers of  
13 the actuary or consultant have expressly agreed to the performance  
14 of the services by the actuary or consultant.

15 (2) The actuary or actuarial firm with which the actuary is  
16 affiliated was not involved in developing the reserves or  
17 principle-based valuation methodology under consideration by the  
18 actuary.

19 (3) The actuary or consultant has disclosed any financial interest  
20 in the companies whose reserves or principle-based valuation  
21 methodologies may be affected by the actuary's or consultant's  
22 services.

23 (e) The commissioner may develop and amend regulations to  
24 implement or modify subdivisions (c) and (d). The initial adoption  
25 of the regulations shall be deemed to be an emergency and  
26 necessary in order to address a situation calling for immediate  
27 action to avoid serious harm to the public peace, health, safety, or  
28 general welfare. Notwithstanding Chapter 3.5 (commencing with  
29 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
30 Code, any emergency regulation adopted or amended by the  
31 commissioner pursuant to this section shall remain in effect until  
32 amended or repealed by the department. All bulletins adopted by  
33 the commissioner pursuant to this article shall not be subject to  
34 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
35 3 of Title 2 of the Government Code.

36 SEC. 23. The Legislature finds and declares that Section 3 of  
37 this act, which amends Section 10489.15 of the Insurance Code,  
38 imposes a limitation on the public's right of access to the meetings  
39 of public bodies or the writings of public officials and agencies  
40 within the meaning of Section 3 of Article I of the California

1 Constitution. Pursuant to that constitutional provision, the  
2 Legislature makes the following findings to demonstrate the interest  
3 protected by this limitation and the need for protecting that interest:

4 In order to protect proprietary information, it is necessary to  
5 enact legislation to ensure that information provided pursuant to  
6 the Standard Valuation Law provided pursuant to this act is kept  
7 confidential.

O